## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

Lizzie Young	<b>§</b>
	<b>§</b>
	§ CASE NUMBER: 4:12cv3533
V.	§ District Judge: Magistrate Mary Milloy
	§ Court Reporter(s):
City Of Houston	§

## NOTICE OF THE FILING OF AN APPEAL

In connection with this appeal, instrument # 30, filed by Lizzie Young, a copy of the notice of appeal, the order being appealed and the docket sheet are attached.

In regard to this appeal:

- IFP granted.
- DKT-13 transcript ordering instructions are attached.
- The Clerk of Court will submit to the Fifth Circuit Court of Appeals a Certificate of Non-Compliance if the appellant fails to return the transcript order form.

David Bradley, Clerk

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Lizzie Young	§
	§
V	§ CASE NUMBER: 4:12cv3533
V.	§ District Judge: Magistrate Mary Milloy
	<pre>§ Court Reporter(s):</pre>
City Of Houston	§

#### TRANSCRIPT ORDER INSTRUCTIONS TO APPELLANT

Pursuant to FRAP 10(a)(1), a transcript order form must be filed within 14 days of the filing of the notice of appeal.

Please review the instructions on the attached DKT 13 Transcript Order Form. Prepare a separate DKT 13 for each reporter from whom transcripts are ordered. All transcripts from tape recorded proceedings may be ordered on one form. Specify exact dates of proceedings to be transcribed on the appropriate reporter or tape order.

If transcript is unnecessary or already on file in the Clerk's office, prepare a DKT 13 and mark the appropriate box to indicate this information.

The appellant must contact the court reporter within 14 days of the filing of the notice of appeal to arrange for the preparation of transcripts.

Court Reporting Services P.O. Box 61010 Houston, TX 77208

Electronic Court Reporting 713-250-5404 Court Reporters 713-250-5499

US District Court 600 E Harrison Street Brownsville, TX 78520-7114 956-548-2500

US District Court 1133 North Shoreline Blvd, Room 208 Corpus Christi, TX 78401 361-888-3142

US District Court PO Box 2300 Galveston, TX 77553 409-766-3530 US District Court 1300 Victoria Street, Suite 1131 Laredo, TX 78040 956-723-3542

US District Court 1701 W. Business Hwy 83, Suite 1011 McAllen, TX 78501 956-618-8065

US District Court PO Box 1638 Victoria, TX 78476 361-788-5000

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#### **INSTRUCTIONS TO COURT REPORTER**

This is an electronic version of the original 8-page, multipart cabon-less form. The court reporter is responsible for ensuring that the correct number of copies are made to meet the distribution requirements.

To assure the Court of Appeals that the ordering party has fulfilled his or her obligations under FRAP 10(b), for ordering and making adequate financial arrangements with the court reporter, you are requested to complete Part II of Copy 3 and forward to the Court of Appeals within seven (7) days after receipt.

It is the appellant's responsibility to contact you and make financial arrangements before filling out the form. However, if financial arrangements have not been made within ten (10) days after receipt of transcript order, complete Part II of Copy 3 and forward to the Court of Appeals. If financial negotiations with the ordering party are still in progress when the 10 days expire, and the chances for completion within a short period of time appears to be good, contact a Deputy Clerk for additional time to complete this form.

(504) 310-7700

If financial arrangements are made after you send the acknowledgement form to the Court of Appeals, immediately notify the Court in writing of the fact, furnishing the estimated delivery date.

THE JUDICIAL COUNCIL'S 60-DAY DISCOUNT DATE BEGINS TO RUN FROM THE DATE SATISFACTORY FINANCIAL ARRANGEMENTS HAVE BEEN MADE.

WRITTEN REQUEST FOR EXTENSION OF TIME WITH EXPLANATION OF CIRCUMSTANCES AND A REQUEST FOR WAIVER OF DISCOUNT MUST BE ADDRESSED TO THE CLERK OF THE CIRCUIT COURT FOR ANY TRANSCRIPTS WHICH CANNOT BE COMPLETED WITHIN 60 DAYS.

TO INSURE ALL EIGHT COPIES ARE LEGIBLE, THIS FORM SHOULD BE TYPED, IF IT IS IMPOSSIBLE TO TYPE. IT IS IMPERATIVE TO PRESS FIRMLY AND CHECK ALL EIGHT COPIES AFTER COMPLETION.

#### **INSTRUCTIONS FOR ANYONE FILING A NOTICE OF APPEAL**

YOU HAVE TEN (10) DAYS AFTER FILING YOUR NOTICE OF APPEAL TO COMPLETE THIS FORM BY DOING THE FOLLOWING:

- 1. Complete Part 1. (Whether or not transcript is ordered)
- 2. Contact each court reporter involved in reporting the proceedings to make arrangements for payment. (A separate transcript order form must be completed for each court reporter)
  - 3. Send Copies 1,2,3, and 4 to each court reporter.
  - 4. Send copy 5 to:

U.S. Court of Appeals for the Fifth Circuit 600 South Maestri Place New Orleans, LA 70130

- 5. Send Copy 6 to District Court.
- 6. Send Copy 7 to appellee(s). (Make additional photocopies if necessary)
- 7. Retain Copy 8 for your files.

SHOULD SATISFACTORY ARRANGEMENTS FOR TRANSCRIPT PRODUCTION, INCLUDING NECESSARY FINANCIAL ARRANGEMENTS, NOT BE MADE WITHIN TEN (10) DAYS AFTER FILING YOUR NOTICE OF APPEAL, YOUR APPEAL CAN BE DISMISSED.

If you have further questions, contact the Clerk's Office, U.S. Court of Appeals for the Fifth Circuit:

(504) 310-7700

#### **DISTRIBUTION:**

Copy 1	Court Reporter's Copy
Copy 2	Court Reporter's Copy for Completion of Part III and Transmittal to the U.S. Court of Appeals (5th Circuit),
	600 South Maestri Place, New Orleans, LA 70130
Copy 3	Court Reporter's Copy for Completion of Part II and Transmittal to the U.S. Court of Appeals (5th Circuit),
	600 South Maestri Place, New Orleans, LA 70130
Copy 4	Court Reporter's Copy to be returned to appellant upon completion of Part II
Copy 5	Appellant's Copy to be transmitted to the U.S. Court of Appeals (5th Circuit), South Maestri Place, New Orleans,
	LA 70130, upon completion of Part I
Copy 6	Appellant's Copy to be sent to the District Court upon completion of Part I
Copy 7	Appellant's Copy to be sent to appellee(s) upon completion of Part I (Make additional photocopies if necessary)
Copy 8	Appellant's Copy to be retained upon completion of Part I

## Case 4:12-cv-03533 Document 35 Filed on 03/13/14 in TXSD Page 4 of 10 READ INSTRUCTIONS ON BACK OF LAST PAGE BEFORE COMPLETING

## TRANSCRIPT ORDER

District Court	District Cou	rt Docket Number	
rt Case Title Court Reporter			
Date Notice of Appeal Filed by Clerk of District Court  Court of Appeals #			
Bute Notice of Appear Filed by Clerk of Bistrice Court		(If Available)	)
PART I. (To be completed by party ordering transcript. Do not complete this form	unless financial arrangeme	nts have been made.)	
A. Complete one of the following:			
☐ No hearings			
Transcript is unnecessary for appeal purposes			
Transcript is already on file in Clerk's office			
This is to order a transcript of the following proceedings: (check appropriate the context of the following proceedings: (check appropriate the context of the following proceedings: (check appropriate the following proceedings) and (check appropriate the following proceedings) are considered to the following proceedings: (check appropriate the following proceedings) are considered to the following proceedings: (check appropriate the following proceedings) are considered to the following proceedings: (check appropriate the following proceedings) are considered to the following proceedings: (check appropriate the following proceedings) are considered to the following proceedings: (check appropriate the following proceedings) are considered to the following proceedings: (check approximate the following proceedings) are considered to the following proceedings: (check approximate the following proceedings) are considered to the following proceedings: (check approximate the following proceedings) are considered to the following proceedings: (check approximate the following proceedings) are considered to the following proceedings: (check approximate the following proceedings) are considered to the following proceedings: (check approximate the following proceedings) are considered to the following proceedings are considered to the following proceedings are considered to the following pro	riate box)		
Voir dire ; Opening statement of plaintiff; defend	ant 🗌 ;		
	of court;		
Jury instructions; Sentencing; Bail hearing;			
HEARING DATE(S)	PROCEEDING	<u> </u>	OGE/MAGISTRATE
FAILURE TO SPECIFY IN ADEQUATE DETAIL THOSE P TO MAKE PROMPT SATISFACTORY FINANCIAL ARRAN	ROCEEDINGS TO BE TRA GEMENTS FOR TRANSCR	NSCRIBED, OR FAILU IPT, ARE GROUNDS F	RE OR
DISMISSAL OF THE APPEAL.			
B. This is to certify that satisfactory financial arrangements have been completed method of payment will be:	with the court reporter for p	ayment of the cost of the	e transcript. The
Private funds; Criminal Justice Act Funds (Attach copy of CJA Fo	rm 24 to court reporter's cop	y);	
Other IFP Funds; Advance Payment waived by reporter;	U.S. Government Funds;		
Other			
Signature	Date Transcri	ot Ordered	
Print Name	Counsel for		
Address	Phone Numbe	r	
ALLOWANCE BY THE COURT FOR LEAVE TO PROC	ED IN FORMA PAUPERIS	IN A CIVIL APPEAL	
DOES NOT ENTITLE THE LITIGANT TO HAVE TRAN			
PART II. COURT REPORTER ACKNOWLEDGEMENT (To be completed by the C	ourt Reporter and forwarded	to the Court of Appeals	within 7 days after
receipt. Read instruction on reverse side of copy 4 before completing	g.)		•
Date transcript order If arrangements are not yet made, date co received ordering party re: financial arrang		Estimated completion date *	Estimated number of pages
Catisfacton, Awangaments for nayment were made on			
Satisfactory Arrangements for payment were made on			
Arrangements for payment have not been made. Reason	Deposit not received	Unable to	
contact ordering party Other (Specify)			
Date Signature of Cou	rt Reporter		Telephone
Address of Court Reporter:			
* Do not include an estimated completion date unless satisfa	ctory financial arrangem	ents have been made	or waived.
PART III. NOTIFICATION THAT TRANSCRIPT HAS BEEN FILED IN THE DISTRI	CT COURT (To completed by	court reporter on date of	of filing transcript
in District Court and notification must be forwarded to Court of Appe		,	<u>.</u>
This is to certify that the transcript has been completed and filed with the District Court today.			
Actual Number of Pages	•	ctual Number of Volumes	
Date Si	gnature of Court Reporter		

# IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

LIZZIE YOUNG, Individually; et. al	)(	
Plaintiff/Appellant	)(	
	)(	
	)(	
v.	)(	CIVIL ACTION
	)(	
CITY OF HOUSTON,	)(	
Individually Officially and	)(	
Vicariously, et. al,	)(	NO. 4:12-cv-3533
Defendant/Appellee.	)(	

#### PLAINTIFF LIZZIE YOUNG'S NOTICE OF APPEAL

#### TO THE HONORABLE COURT:

On October 7, 2013, the Honorable Magistrate Judge Mary Milloy entered judgment dismissing this case. On November 4, 2013, Plaintiff Lizzie Young filed a verified motion to vacate Dismissal judgment; and for reinstatement of the case or for new trial, (Docket Entry # 26). On December 4, 2013, the Court entered an order denying Plaintiff's Nov. 4<sup>th</sup> motion/objections (Docket Entry # 28).

By this document, Plaintiff Lizzie Young gives notice that she wishes to appeal the October 7, 2013 dismissal judgment, together with the December 4, 2013 Order, to the United State Court of Appeals, Fifth Circuit.

Noticed this 2 day of ay, 2014

FOR THE PLAINTIFF/APPELLANT

Lizzie Young, Pro Se C/O P.O. Box 711454

Houston, Texas 77271-1454

(713) 721-5320

## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

LIZZIE YOUNG,	§	
D1 : 4:66	§	
Plaintiff,	§ c	
	8	
VS.	§	CIVIL ACTION NO. H-12-3533
	§	
CITY OF HOUSTON,	§	
	§	
Defendant.	<b>§</b>	

### **FINAL JUDGMENT**

On January 31, 2013, the parties consented to proceed before a United States magistrate judge for all purposes, including the entry of a final judgment, under 28 U.S.C. § 636(c). On September 19, 2013, the court entered a memorandum and order disposing of the issues in this case. Therefore, it is,

**ORDERED** that this case is **DISMISSED**.

This is a **FINAL JUDGMENT**.

**SIGNED** at Houston, Texas, this 7th day of October, 2013.

MARY MILLOY UNITED STATES MAGISTRATE JUDGE

APPEAL, CLOSED

## U.S. District Court SOUTHERN DISTRICT OF TEXAS (Houston) CIVIL DOCKET FOR CASE #: 4:12-cv-03533 Internal Use Only

Young v. City of Houston

Assigned to: Magistrate Judge Mary Milloy

Case in other court: In the 269th Judicial District Court

Harris County, 12-62875

Cause: 42:1983 Civil Rights Act

Date Filed: 12/05/2012 Date Terminated: 10/07/2013

Jury Demand: Both

Nature of Suit: 440 Civil Rights: Other

Jurisdiction: Federal Question

**Plaintiff** 

Lizzie Young represented by Lizzie Young

PO Box 711454

Houston, Tx 77271-1454

PRO SE

V.

#### **Defendant**

**City of Houston** 

City of Houston-Legal Department 900 Bagby, 3rd Floor Houston, TX 77002 832-393-6476 represented by Deidra Ann Norris

The City of Houston Legal Dept

900 Bagby 3rd Floor

Houston, TX 77002 832-393-6476

Email: deidra.norris@houstontx.gov

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/05/2012	<u>1</u>	NOTICE OF REMOVAL from 269th, case number 2012-62875 (Filing fee \$ 350 receipt number 0541-10686555) filed by City of Houston. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit)(Norris, Deidra) (Entered: 12/05/2012)
12/18/2012	2	ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons. Initial Conference set for 1/29/2013 at 04:00 PM in Courtroom 11B before Judge Lee H Rosenthal. Parties notified. (leddins, ) (Entered: 12/18/2012)
12/26/2012	<u>3</u>	CERTIFICATE OF SERVICE by City of Houston, filed.(Norris, Deidra) (Entered: 12/26/2012)
12/31/2012	4	CERTIFICATE OF INTERESTED PARTIES by City of Houston, filed.

		(Norris, Deidra) (Entered: 12/31/2012)
01/14/2013	<u>5</u>	Amended CERTIFICATE OF INTERESTED PARTIES by City of Houston, filed.(Norris, Deidra) (Entered: 01/14/2013)
01/18/2013	<u>6</u>	Joint JOINT DISCOVERY/CASE MANAGEMENT PLAN by City of Houston, filed.(Norris, Deidra) (Entered: 01/18/2013)
01/28/2013	7	NOTICE of Resetting. Parties notified. Initial Conference reset for 1/29/2013 at 04:30 PM in Courtroom 11B before Judge Lee H Rosenthal, filed. NOTE: THE CHANGE IS TO TIME ONLY. (leddins, ) (Entered: 01/28/2013)
01/28/2013		***Deadlines terminated. Initial conference set for 1/28/13 is canceled based on the parties agreement to proceed before the magistrate judge. Consent and order to be entered. Hearing will be reset once the transfer takes place. (leddins, ) (Entered: 01/28/2013)
01/30/2013	8	CONSENT to Proceed Before a Magistrate Judge by City of Houston, filed.(Norris, Deidra) (Entered: 01/30/2013)
01/30/2013	9	Unopposed MOTION for Leave to File Amended Pleading by City of Houston, filed. Motion Docket Date 2/20/2013. (Attachments: # 1 Exhibit A)(Norris, Deidra) (Entered: 01/30/2013)
01/31/2013	10	CONSENT TO PROCEED BEFORE MAGISTRATE JUDGE by City of Houston, Lizzie Young and ORDER TRANSFERRING CASE to Magistrate Judge Mary Milloy. Judge Lee H Rosenthal no longer assigned to the case.(Signed by Judge Lee H Rosenthal) Parties notified.(sbyrum, ) (Entered: 02/01/2013)
02/04/2013	<u>11</u>	ORDER granting 9 Motion for Leave to File an Amended Pleading (Signed by Magistrate Judge Mary Milloy) Parties notified.(kpicota, ) (Entered: 02/06/2013)
02/04/2013	<u>12</u>	AMENDED AFFIRMATIVE DEFENSES by City of Houston, filed. (kpicota) (Entered: 02/06/2013)
02/08/2013	<u>13</u>	NOTICE of Setting. Parties notified. Scheduling Conference set for 3/14/2013 at 03:00 PM in Courtroom 701 before Magistrate Judge Mary Milloy, filed. Parties must appear in-person. (cjan, ) (Entered: 02/08/2013)
03/14/2013	<u>14</u>	OBJECTIONS to 11 Order on Motion for Leave to File, 9 Unopposed MOTION for Leave to File Amended Pleading, 12 Document, filed by Lizzie Young. (smurdock, ) (Entered: 03/14/2013)
03/14/2013	<u>15</u>	MOTION to Modify or Vacate Court's order as to 11 Order on Motion for Leave to File (Motion Docket Date 4/4/2013.), MOTION to Strike 12 Document by Lizzie Young, filed. Duplicates entry # 14 for case mangement purposes Modified on 3/15/2013 (smurdock, ). (Entered: 03/14/2013)
03/15/2013	<u>16</u>	Minute Entry for proceedings held before Magistrate Judge Mary Milloy. SCHEDULING CONFERENCE held on 3/14/2013. The Defendant is to

		file a status letter with the court by March 25, 2013. Status Conference set for 4/24/2013 at 10:00 AM in Courtroom 701 before Magistrate Judge Mary Milloy Appearances:Lizzie Young - Pro Se. Deidra Ann Norris. (ERO:W. Bostic), filed.(cjan, ) (Entered: 03/15/2013)
03/25/2013	<u>17</u>	Letter from Deidra Norris re: <u>16</u> Minute Enry- order to file status letter, filed. (kpicota, ) (Entered: 03/26/2013)
04/03/2013	<u>18</u>	RESPONSE to 15 MOTION to Modify Court's order as to 11 Order on Motion for Leave to File MOTION to Modify Court's order as to 11 Order on Motion for Leave to File MOTION to Vacate 11 Order on Motion for Leave to File MOTION to Vacate 11 Order on Motion for Leave to File MOTION to Strike 12 Document MOTION to Strike 12 Document filed by City of Houston. (Attachments: # 1 Proposed Order)(Norris, Deidra) (Entered: 04/03/2013)
04/15/2013	<u>19</u>	ORDER denying <u>15</u> Motion to Modify or Vacate Court's Order (Signed by Magistrate Judge Mary Milloy) Parties notified.(kpicota, ) (Entered: 04/16/2013)
04/24/2013	<u>20</u>	Minute Entry for proceedings held before Magistrate Judge Mary Milloy. STATUS CONFERENCE held on 4/24/2013. Defendant will have until May 24, 2013 to file a motion to dismiss. Plaintiff will have 21 days to respond. Defendant may file a reply. Status Conference set for 9/16/2013 at 10:00 AM in Courtroom 701 before Magistrate Judge Mary Milloy Appearances:Lizzie Young - Pro Se. Deidra Ann Norris.(ERO:J. Davenport), filed.(cjan, ) (Entered: 04/24/2013)
05/24/2013	<u>21</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by City of Houston, filed. Motion Docket Date 6/14/2013. (Attachments: # 1 Exhibit A - Affidavit of Michele Austin, # 2 Exhibit B - Plaintiff's Original Complaint)(Norris, Deidra) (Entered: 05/24/2013)
06/14/2013	<u>22</u>	RESPONSE to 21 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Lizzie Young. (ccarnew, ) (Entered: 06/17/2013)
09/03/2013	<u>23</u>	NOTICE of Resetting. Parties notified. Status Conference set for 10/8/2013 at 02:00 PM before Magistrate Judge Mary Milloy, filed. the hearing set for September 16, 2013 is CANCELLED. (cjan, ) (Entered: 09/03/2013)
09/19/2013	<u>24</u>	MEMORANDUM AND ORDER granting 21 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM. Accordingly, it is ORDERED that Defendants motion to dismiss is GRANTED, for failure to state a claim. As a result, this case is dismissed, without prejudice, subject to re-pleading within 14 days, if appropriate. (Signed by Magistrate Judge Mary Milloy) Parties notified.(cjan, 4) (Entered: 09/19/2013)
09/19/2013		(Court only) ***Deadlines terminated. The status conference set for 10/8/13 at 2:00 p.m. is CANCELLED. (cjan, 4) (Entered: 09/19/2013)
10/07/2013	<u>25</u>	FINAL JUDGMENT. Case terminated on 10/7/2013(Signed by Magistrate Judge Mary Milloy) Parties notified.(cjan, 4) (Entered: 10/07/2013)
11/04/2013	<u>26</u>	MOTION to Vacate 25 Final Judgment, MOTION to Reinstate case,

		MOTION for New Trial, MOTION for oral argument re: <u>25</u> Final Judgment (Motion Docket Date 11/25/2013.) by Lizzie Young, filed. (jdav, 4) (Additional attachment(s) added on 11/5/2013: # <u>1</u> proposed orders) (jdav, 4). (Entered: 11/05/2013)
11/27/2013	<u>27</u>	RESPONSE in Opposition to <u>26</u> MOTION to Vacate <u>25</u> Final Judgment MOTION to Reinstate case MOTION for New Trial MOTION for oral argument Hearing re: <u>25</u> Final Judgment, filed by City of Houston. (Attachments: # <u>1</u> Proposed Order)(Norris, Deidra) (Entered: 11/27/2013)
12/03/2013	<u>28</u>	ORDER denying <u>26</u> MOTION to Vacate <u>25</u> Final Judgment, MOTION to Reinstate case, MOTION for New Trial, MOTION for oral argument re: 25 Final Judgment.(Signed by Magistrate Judge Mary Milloy) Parties notified. (gkelner, 4) (Entered: 12/04/2013)
01/02/2014	<u>29</u>	MOTION for Reconsideration of <u>28</u> Order on Motion to Vacate, Order on Motion to Reinstate, Order on Motion for New Trial, Order on Motion for Hearing by Lizzie Young, filed. Motion Docket Date 1/23/2014. (thanniable, 4) (Entered: 01/02/2014)
01/02/2014	<u>30</u>	NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit re: <u>25</u> Final Judgment by Lizzie Young (Filing fee \$ 505), filed.(thanniable, 4) (Entered: 01/02/2014)
01/02/2014	<u>31</u>	MOTION for Leave to Appeal in forma pauperis by Lizzie Young, filed. Motion Docket Date 1/23/2014. (thanniable, 4) (Entered: 01/02/2014)
01/02/2014	32	MOTION to Stay Appeal by Lizzie Young, filed. Motion Docket Date 1/23/2014. (thanniable, 4) (Entered: 01/02/2014)
01/06/2014	<u>33</u>	ORDER denying 29 Motion for Reconsideration.(Signed by Magistrate Judge Mary Milloy) Parties notified.(cjan, 4) (Entered: 01/06/2014)
01/06/2014		Notice of Assignment of USCA No. 14-20015 re: <u>30</u> Notice of Appeal, filed.(hler, 4) (Entered: 01/06/2014)
01/09/2014		***Motion(s) terminated: <u>32</u> MOTION to Stay Appeal. Motion is MOOT. Plaintiff's motion for reconsideration was denied. See Docket Entry <u>33</u> Order denying motion for reconsideration. (cjan, 4) (Entered: 01/09/2014)
01/30/2014	<u>34</u>	ORDER granting 31 Motion for Leave to Appeal in forma pauperis. (Signed by Magistrate Judge Mary Milloy) Parties notified.(lusmith, 3) (Entered: 01/31/2014)